Remarks

The applicant has resubmitted some of the claims, amended some of the claims and added new claims in response to the Official Communication. The applicant submits that the presently submitted claims are in condition for allowance. The applicant requests the Office to review the presently submitted claims in view of the following remarks and respectfully requests the Office to move this case towards allowance.

Paragraphs 1 – 3, 5 and 7 of the Official Communication do not require a response.

In paragraph 4, the Office has rejected claims 97, 100, 101 and 104 under 35 U.S.C § 102(b) as being anticipated by U.S. Patent Number 5,959,945 to *Kleiman.* The applicants submit the following argument in the traversal of this rejection.

In general, *Kleiman* teaches a jukebox that can automatically select songs to be down loaded for playback. The actual songs are located at a central location and at most, a menu of available songs are downloaded to the jukebox. The jukebox can then, based on user demand, request a download the songs from the central location. The central location assimilates the requests from various jukeboxes and coordinates the simultaneous transmission of similar songs to various jukeboxes requesting the songs. Once a song has been recorded into the jukebox, the song is immediately available for playback and, each time the song is played, a count is maintained to assist in determining royalty payments that are due.

Fundamentally, this is very different from the present invention. The present invention is geared towards personal usage, although it could be applied in a public use scenario similar to a jukebox. In fact, the system described in *Kleiman* could most likely benefit from the application of the present invention to its technology. However, the present invention is not described, suggested or taught by the *Kleiman.*

The present invention recited in these claims transmits music in a blanket format from a central location. This transmission occurs without any selection or particular requests being made by the user station. The user station simply receives the transmitted music and stores all or selections of the music completely independent from the transmitting device. Note that in *Kleiman*, only songs selected by the jukebox are transmitted to the jukebox. Thus, the central location in *Kleiman* must do extra work to coordinate the unique transfers of the music, whereas the present invention allows the transmission to be identical and places the burden on the user device to select which portions of the transmission to receive.

More particularly, these claims recite the element of a circuit that operates to degrade the quality of the previewed preselected music selections by compressing the preselected music selections. This element is important because any equipped user station can receive and store a transmitted song. Unlike Klieman in which the playback of each song downloaded in the jukebox is monitored for determining royalty payments, the claimed invention authorizes a certain number of playbacks of a song before the quality of the song is degraded. This allows the user to determine whether or not he or she really wants to purchase the song for unrestricted playback or for restricted playback. Klieman does not describe, suggest or teach such an element nor would it have been obvious to include such an element with the invention described in *Kleiman*.

The Office has alleged that the portion of *Kleiman* that describes deleting portions of a hierarchy or songs which are not accessed as often to make space for new portions of the hierarchy or songs is the same as a circuit that operates to degrade the quality of the previewed music selections. Column 9 line 60 to column 10 lines 7. The applicant respectfully disagrees.

Kleiman merely teaches that songs can be deleted. This is not the same as degraded the quality of a song after a predetermined number of playbacks have occurred.

Thus, based at least on these arguments, the applicant respectfully submits that these claims are allowable over *Kleiman* and requests the Office to move these claims towards allowance.

In paragraph 6, the Office has rejected claims 98, 99, 102 and 103 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent Number 5,959,945 to *Kleiman* in view of U.S. Patent Number 6,044,047 to *Kulas*. The applicants submit the following argument in the traversal of this rejection.

The same arguments presented above with respect to claims 97, 100, 101 and 104 apply to these claims. In addition, the Office alleges that *Kulas* describes the element of a circuit for overlaying voice and distortion or noise or low frequencies over the preselected music selections. The applicant respectfully disagrees with the Office.

First of all, the applicants state that there would be no motivation whatsoever to combine the Kleinman and *Kulas* references. Secondly, combining the references does not result in describing each and every element of the invention recited in these claims.

Kulas teaches a method to allow a user to listen to a portion a song that on a CD. Portions of the song are loaded into memory and the user can quickly listen to these portions, in a scan type operation, to identify the song the user wants to hear in entirety. Because this is just a sample to allow the user to identify the song, the bit density and quality of the play back does not have to be at the level of what is available on the CD. Thus, a lower bit sampling technique is used.

This is very different from what is recited in the claims. Claims 98 and 102 recite a circuit for degrading a quality of the previewed preselected music selections by adding distortion to the preselected music selections. Claims 99 and 103 accomplish this by overlaying voice over the music selections. Nothing in the cited references gives rise to the addition of distortion to the preselected music selections. The purpose of the distortion is to prevent a user for enjoying the music without paying for it. *Kulas* on the other hand is attempting to convey information to the user in the most memory efficient manner. Thus, the present invention teaches altering the selection so that the user cannot listen to it, whereas *Kulas* teaches creating a new portion of the music, in a memory efficient manner, which will enable the use to identify and select a song for playback.

Thus, the applicant submits that claims 97-104 are in condition for allowance and respectfully requests and appreciates the Office moving these claims towards allowance.

In paragraph 8, the Office 97-104 were not allowable because they failed to incorporate the limitations of the intervening base claims. The applicant has now submitted a response regarding the rejection of these claims. In addition, the applicant has submitted new claims 105-108 that explicitly comply with the objects raised by the Office in the October 8, 2002 Official Communication. Claim 105 has been introduced and it includes claim 17 and each of the claims from which it depends. Claim 106 has been introduced and it includes claim 28, and each of the claims from which it depends. Claim 107 has been introduced and it includes claim 60, and each of the claims from which it depends. Claim 108 has been introduced and it includes claim 71, and each of the claims from which it depends. Thus, the applicant submits that claims 105-108 are allowable in accordance with instructions from the Office and respectfully request the office to allow these claims.

Conclusion

The applicant respectfully submits that each and every issue raised by the Office has been addressed and that this case is in condition for allowance. The applicant has thoroughly reviewed the references cited by the Office and has presented arguments as to why the present claims should be allowed. If the Office has any questions regarding these claims or this response, the Office can call the applicant's attorney, Gregory Smith at (770) 804-9070.

Respectfully submitted,

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